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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/612,697

07/10/2000

Kevin Benson McNeil

6033CC

9466

27752

7590

12/23/2004

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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EXAMINER

WILLIAMS, KEVIN D

ART UNIT

PAPER NUMBER

2854

DATE MAILED: 12/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/612,697

Applicant(s)

MCNEIL

Examiner

Kevin D. Williams

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims recite language indicating that the sheet is transported in a first direction. The first direction appears to be the linear path of the sheet as shown in figure 3. The claims also recite language indicating that the printer, the perforator blade, and the chop off blade are movable in the first direction. It is unclear how the printer, perforator blade, and the chop off blade move in the first direction of the sheet, since it appears that the printer, perforator blade, and chop off blade each have circular paths while the sheet has a linear path.

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### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 9, 10, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by Saindon (US 5,660,674).

Saindon teaches a process for registering indicia and lines of termination in a moving sheet, said process comprising steps of providing a generally planar sheet 11, transporting said sheet in a direction at a first velocity, applying indicia (seal) to said sheet from a printer 28,30 movable in said first direction relative to said sheet, said printer being movable at a second velocity, imparting lines of termination to said sheet from a blade 22 movable in said first direction relative to said sheet, said blade being movable at a third velocity, said lines of termination being spaced apart from said indicia in a spacing, varying (Abs., lines 10-14) one of said second or third velocities independent of the other to maintain said spacing within a desired range, wherein a path length of said moving sheet between said printer and said blade remains substantially constant, the step of apply indicia to said sheet comprises apply indicia to said sheet at a position spaced apart from said lines of termination at a distance, determining the position of said blade relative to said sheet (col. 9, lines 46-55), determining the actual spacing between said indicia and said lines of termination (col.

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15, lines 1-6), subtracting said position of said blade and said distance between said indicia and said lines of termination to produce an error signal, where one of said second velocity and said third velocity is varied (col. 15, lines 3-6) when said error signal exceeds a preset value.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saindon in view of Fowler (US 5,795,280).

With respect to claims 11-15, Saindon teaches the claimed invention and sensing the position of said indicia 112, but does not teach sensing the position of said indicia by sensing the difference in reflectance between said indicia and said sheet.

Fowler teaches sensing 90 the position of indicia by sensing the difference in reflectance between the indicia and the sheet.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saindon to have the sensing device as taught by Fowler, since reflective sensing devices are very accurate and reliable.

With respect to claims 16 and 17, Saindon teaches the claimed invention except for the spacing between said lines of termination and said indicia having a tolerance range within +/- 0.125 and within +/-0.063.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Saindon to have a tolerance range within  $\pm 0.125$  and within  $\pm 0.063$ , since machines are not absolutely perfect and it would be cost beneficial to allow some deviation from the desired result, rather than to employ extremely expensive devices that provide near perfect preciseness.

A tolerance range for the spacing between the lines of termination and the indicia is apparent in the Saindon device. When mechanical tolerances inherent in parts from the machining process are considered, at least a tolerance range derived from these mechanical tolerances of the parts exists in Saindon. In addition, it has been held that where the general conditions of a claim are disclosed in the prior art, there is nothing unobvious about discovering the optimum or workable ranges by routine experimentation. MPEP 2144.05 (II) (A)

7. Claims 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNeil (US 4,687,153) in view of Saindon.

McNeil teaches a process for registering indicia and perforations in a moving sheet, said process comprising steps of providing a generally planar sheet 21, transporting said sheet in a first direction at a first velocity, imparting perforations to said sheet from a perforator blade 24 movable in said first direction relative to said sheet, said perforator blade being movable at a third velocity, imparting chop off cuts from a chop off blade 80 to separate said continuous sheet into discrete units, wherein said chop off blade is movable in said first direction relative to said sheet, varying said third velocity (col. 4, lines 45-60) or varying movement of said chop off blade, wherein a path

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length of said sheet remains substantially constant, said perforator blade and said chop off blade are driven by a common motor 35, determining the position of said perforator blade and said chop off blade relative to said sheet, and determining the actual spacing between said indicia and said perforations.

McNeil does not teach applying indicia to said sheet from a printer movable in said first direction relative to said sheet, said printer being movable at a second velocity.

Saindon teaches a device that applies indicia to a sheet from a printer (13;col. 5, lines 16-17) movable in a first direction relative to said sheet, said printer being movable at a second velocity.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify McNeil to have the indicia applying device as taught by Saindon, in order to add a decorative appeal to the substrate.

### ***Response to Arguments***

8. Applicant's arguments filed 9/30/2004 have been fully considered but they are not persuasive.

In response to the rejection under 35 U.S.C. 112, applicant argues that the printer, perforator blade, and the chop off blade each move in the first direction along with the sheet. It is unclear how the printer, perforator blade, and the chop off blade move in the first direction along with the sheet, since the printer, perforator blade, and chop off blade each have circular paths while the sheet has a linear path.

Applicant argues that the seal bars only move perpendicularly to the sheet. Column 5, lines 40-50 indicate that the drum 28 rotates with the sheet.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin D. Williams whose telephone number is (571) 272-2172. The examiner can normally be reached on Monday - Friday, 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew H. Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.



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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KDW

December 17, 2004

A handwritten signature in black ink, appearing to read "Andrew H. Hirshfeld", is positioned above the printed name and title.

ANDREW H. HIRSHFELD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800